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IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR.

WRIT PETITION (S) No. 5356 OF 2006

WRIT PETITION UNDER ARTICLES 226/227 OF
THE CONSTITUTION OF INDIA

PETITIONER

:: Mohammed Rafik, S/o. Sheikh Mohammed Umer, aged about 53 years, Upper Division Teacher, at Middle School, Pali, District Korba (C.G.), R/o. New Bus Stand Pali, District Korba (C.G.)

VERSUS

RESPONDENTS

- 1) State of Chhattisgarh, through Secretary Department of Scheduled Tribes and Schedule Castes Development DKS Bhavan, Mantralaya, Raipur (C.G.)
- 2) The Commissioner, Department of Scheduled Tribes and Schedule Castes Development, Chhattisgarh, H.Q. Pt. Ravishanker University Campus, Raipur (C.G.)
- 3) The Collector Tribal Development Department District Korba (C.G.)

WRIT PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF
APPROPRIATE WRIT/WRITS, ORDER/ORDERS,
DIRECTION/DIRECTIONS etc.

P.A. No. 53971/06
Presented by Sd/- S.F. Ali
dated 26/9/06

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62

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (s) No. 5356 of 2006

Petitioner	Mohammed Rafik
Versus	
Respondents	State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri K.A. Ansari, Sr. Advocate with Shri S.I. Ali, Advocate for the petitioner.

Shri Sumesh Bajaj, Govt. Advocate for the respondents/State.

O R D E R

(9th October, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was employed as Upper Division Teacher in Boys Middle School, Pali, District Korba. By order dated 6.7.2006 (Annexure P/3), the petitioner was transferred from Boys Middle School, Pali, District Korba to Balak Ashram Badgaon, District Korba by the respondent No. 3.
2. The State Government immediately on 7.7.2006 (Annexure P/4) passed one more transfer order, whereby the petitioner was transferred from Boys Middle School, Pali, District Korba to Primary School Citakhol, Block Kartala, District Korba.
3. Being aggrieved, the petitioner had filed a writ petition, being W.P.(s) No. 4236 of 2006. This Court, after hearing both the parties, by order dated 14.8.2006 (Annexure P/6), granted liberty to the petitioner without expressing any opinion on the merit of the case, to make a detailed representation to the concerned authorities. The petition was disposed of accordingly. The transfer orders dated 6.7.2006 and 7.7.2006, in the meantime, were stayed till the disposal of the representation of the petitioner.

4. The Secretary, Department of Scheduled Tribes and Scheduled Castes Welfare Development, Government of Chhattisgarh after affording proper opportunity of hearing to the petitioner, rejected the representation, holding that by mistake in the transfer order dated 7.7.2006, the petitioner was shown as Assistant Teacher and he was accordingly transferred to the Primary School. The Secretary clarified and modified accordingly and maintained the transfer order dated 6.7.2006 passed by the respondent No. 3.
5. Being aggrieved, the petitioner has filed the present writ petition.
6. Shri K.A. Ansari, learned Senior Advocate with Shri S.I. Ali, learned Advocate appearing for the petitioner submits that there was complete non-application of mind, as the name of the petitioner is Mohammed Rafik and in the order the name has been shown as Rafik Khan. Learned counsel for the petitioner does not dispute the fact of posting of the petitioner, who is Mohammed Rafik, name of whose shown as Rafik Khan and his posting as Upper Division Teacher in Boys Middle School, Pali. Thus, the contention of the petitioner is not tenable and identity of the petitioner is not doubtful, as the petitioner has appeared before the Secretary and has not pointed out deficiency to this effect in his application, before the Secretary.
7. With regard to other allegations, learned counsel for the petitioner submits that the order was arbitrary, unreasonable, mala fide, punitive and politically motivated. Learned counsel for the petitioner is not in a position to substantiate his arguments by producing any document, except his affidavit in support of the allegations (supra). Thus, the charges of arbitrariness,

unreasonableness, mala fide, punitive and politically motivated are not established thus not proved.

8. The third contention of learned counsel for the petitioner is that according to the petitioner, the Secretary, who has decided the representation, informed the petitioner that there were certain complaints against the petitioner and as such the order is punitive.
9. It is well settled that if there are some complaints of simple nature, the employee can be transferred in public interest without holding any enquiry and as such, it cannot be said that the order is punitive, as the transfer of the petitioner is within the district from one block to other block.
10. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. The petitioner/employee cannot be permitted to remain at one place, forever, by Court orders. At this stage, it is not necessary to examine validity of the transfer.
11. The writ petition is accordingly dismissed. No order as to costs.

Bablu

Sd/-
Satish K. Agnihotri
Judge